

HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

v.

MOTOROLA, INC., et al.,

Defendants.

MOTOROLA MOBILITY, INC., et al.,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

No. C10-1823-JLR

MICROSOFT'S MOTION TO FILE
DOCUMENTS UNDER SEAL

NOTED FOR:
Friday, October 14, 2011

I. RELIEF REQUESTED

Microsoft Corporation moves for leave to file certain portions of its Reply in Support of its Motion for Partial Summary Judgment (the "Reply Brief") under seal pursuant to Local Civil Rule 5(g) and paragraphs 2(a) and 8 of the Protective Order entered in this case.

II. FACTS & AUTHORITY

Microsoft's Reply Brief refers to certain information and documents designated by Motorola as Confidential Business Information and filed by Motorola under seal with its Opposition to Microsoft's Motion for Partial Summary Judgment. Under the terms of the

MICROSOFT'S MOTION TO FILE
DOCUMENTS UNDER SEAL - 1

1 Protective Order entered on July 21, 2011(ECF No. 72), Microsoft is required to file its Reply
2 Brief under seal in order to maintain the confidentiality of material that Motorola has identified
3 as Confidential Business Information.

4 Paragraphs 2(a) and 8 of the Protective Order govern the filing of documents under
5 seal. Paragraph 2(a) provides:

6 Any information submitted in pre-trial discovery or in a pleading, motion, or
7 response to a motion in this action...and which is asserted by a supplier to
8 contain or constitute Confidential Business Information shall be so designated
9 by such supplier in writing...and shall be segregated from other information
10 being submitted. Documents shall be clearly and prominently marked on their
11 face with the legend: “[SUPPLIER’S NAME] CONFIDENTIAL BUSINESS
12 INFORMATION, SUBJECT TO PROTECTIVE ORDER” or a comparable
notice. During the pre-trial phase of this action, such information, whether
submitted in writing or in oral testimony, shall be disclosed only *in camera*
before the Court and shall be filed only under seal, pursuant to Rule 5(g) of the
Local Civil Rules of the United States District Court for the Western District of
Washington.

13 Paragraph 8 likewise provides that:

14 Any Confidential Business Information submitted to the Court in connection
15 with a motion or other proceeding within the purview of this action shall be
16 submitted under seal pursuant to paragraph 2 above.

17 *Id.*, at ¶ 8.

18 Under these provisions of the Protective Order, Microsoft is required to file certain
19 limited portions of its Reply Brief under seal because those portions refer to information that
20 Motorola has designated as Confidential Business Information under the Protective Order. For
21 purposes of this Motion, Microsoft is not opposing Motorola's relevant confidentiality
22 designations. However, nothing in this Motion is intended as a waiver of Microsoft's right to
23 contest these or any other of Motorola's designations of material to be protected under the
24 terms of the Protective Order. Microsoft expressly reserves the right to do so as the
25 circumstances warrant.

MICROSOFT'S MOTION TO FILE
DOCUMENTS UNDER SEAL - 2

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1 Microsoft is filing a public version of its Reply Brief in which references to material
2 designated by Motorola as Confidential Business Information have been redacted.

3 **III. CONCLUSION**

4 For the foregoing reasons, Microsoft respectfully requests that this Court permit
5 Microsoft to file its Reply Brief under seal, with a redacted copy being filed in the public
6 record. A [Proposed] Order Granting Microsoft's Motion to File Documents Under Seal has
7 been submitted herewith.

8 DATED this 30th day of September, 2011.

9 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 30, 2011, I electronically filed the foregoing
3 document with the Clerk of the Court using the CM/ECF system, which will send notification
4 of such filing to the following:

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6 **General Instrument Corporation**

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